

CZECH REPUBLIC

106/1999 Coll.

LAW

Dated 11 May 1999

On free access to information

The Parliament passed the following law of the Czech Republic:

PART ONE

§ 1

Purpose of the law

The law adjusts the provisions for free access to information and sets forth the basic conditions, by which the information is provided.

§ 2

Obligation to provide information

- (1) State authorities and communal bodies are obliged entities that have, in compliance with this law, an obligation to provide information related to their activities.
- (2) Other obliged entities are those subjects to whom the law has entrusted deciding about legal matters, legally protected interests or duties of natural persons or legal entities in the area of public administration, but only to the extent of this decisive activity.
- (3) The law does not apply to procedures during provision of information by compulsory subjects, which is adjusted by special regulations. 1)

1) For instance Law No 123/1998 Coll., on the right for information about the environment.

§ 3

Basic terms

- (1) For the purpose of this Law an applicant is any natural person or legal entity, requesting information.
 - (2) Possibility of remote access, for the purpose of this Law, is the access of an unlimited circle of applicants by means of telecommunications equipment 2) (for instance by means of the Internet network).
 - (3) Disclosed information, for the purpose of this law, is such information, that can always be looked up and obtained, namely issued in print or on some other data carrier enabling recording and preserving the information, exhibited on public notice, with possibility of remote access or placed in a public library. 3)
 - (4) Accompanying information, for the purpose of this law, is such information, which is closely related with the required information (for instance information about its existence, origin, number, reason for withholding, the period in which the reason for withholding prevails and when will it be reviewed again, and other important features).
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2) § 1 par 4 letter a) of Law No 110/1964 Coll., on telecommunications, in wording of Law No. 150/1992 Coll.

3) Law No 53/1959, on uniform system of libraries (Library Act), in the wording of Law No 425/1990 Coll.

§ 4

Providing information

The obliged entities provide information to the applicant on the basis of their application or by disclosure.

§ 5

Disclosing information

- (1) To inform the public, every obliged entity must make public on its premises and in its offices, in a place generally accessible and enabling acquisition of copies of the following information:

- (a) The reason for and manner of establishment of the obliged entity, including conditions and principles for operation of its activities,
 - (b) A description of its structure of organization, the place and manner, how to obtain respective information , where an application or claim can be filed, a proposal submitted, initiation or some other demand or receive a decision,
 - (c) Place, term and manner, where rectification means can be filed against a decision of the obliged entity , including explicitly mentioning the requirements, which are placed in this relation on the applicant, as well as a description of procedures and rules, that have to be adhered to during these activities and the title of the respective form and the manner and place where such a form can be obtained.,
 - (d) The procedure the obliged entity must keep, when attending to all applications, proposals and other demands of citizens, including respective terms, that have to be observed.,
 - (e) An overview of most important regulations, according to which the obliged entity namely acts and decides, which set forth the right to demand information and obligation to provide information and which modify further rights of citizens in relation to the subject including information where and when this information is provided for examination,
 - (f) Rates and fees for providing information,
 - (g) The annual report for the previous calendar year about its activities in the area of providing information (§ 18).
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- (1) Subjects are obliged to disclose information listed in paragraph 1 also in a manner that enables remote access. This obligation does not apply to subjects, that are only natural persons.
 - (2) Obligated entities maintaining and administering registers containing information that are, on the basis of a special regulation, accessible for everybody, are obliged to disclose these data in a clear form and manner enabling remote access. These obliged entities, for this purpose, do not have an obligation. The obligation to prevent grouping of information according to § 17 letter f) of Law No 256/1992 Coll., on protection of personal information in information systems does not apply to these subjects for this purpose.
 - (3) The obliged entities can disclose information according to paragraph 1 by other means and with exceptions listed in this law he can disclose further information.

§ 6

Obligation to refer to disclosed information

- (1) If the application is directed at providing already disclosed information, the subject can, as soon as possible, but within seven days at the latest, instead of providing the information give the applicant data, that will enable looking up and gaining the disclosed information.
- (2) If the applicant insists on direct provision of the disclosed information, the subject will provide it to him.

§ 7

Protection of secret facts

If the requested information is, in accordance with legal regulations 4) marked as secret, to which the applicant has no authorized access, the subject will not provide it.

4) Law No 148/1998 Coll., on protection of secret facts and adjustment of some laws.

§ 8

Protection of personality and privacy

- (1) Information, that gives evidence of the personality and privacy of a natural person, especially of its race, nationality, political standing and membership in political parties and movements, its attitude to religion, its criminal activities, health, sexual life and property the subject will provide only, if determined by a special law, or if prior written agreement is given by the relevant living person. If the relevant person is no longer alive, information about it can only be provided on the assumption, that its human dignity, personal honour, good reputation will be preserved and good name protected.
 - (2) Written matter of a personal character, portraits, pictures, video and sound recordings about a natural person or its manifestations of a personal character the subject will provide only on conditions set forth by a special law. 5)
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5) Law No 256/1992 Coll., on protection of personal data in information systems. § 11 of law No 40/1964 Coll., the Civil Code, in wording of law No 509/1991 Coll.

§ 9

Protection of business secret

- (1) If the requested information is marked as a business secret, 6) the obliged entity will not provide it.
 - (2) When providing information related to use of state budget means, community budget or fund established by the law 7) or use of property of these obliged entities, providing information about the amount and acceptor of these means is not considered as a breach of a business secret.
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6) § 17 of Law No 513/1991 Coll., Commercial Code

7) For instance Law No 388/1991 Coll., on State environment fund of the Czech Republic, in wording of Law No 334/1992 Coll., Law No 171/1991 Coll., on activity of Czech Republic

authorities in matters of transfer of property of the state to other persons and about the National Property Fund of the Czech Republic, in wording of later regulations, Law No 472/1992 Coll., on State Fund of Market Regulation in Agriculture, in wording of later regulations.

§ 10

Protection of confidentiality of property standing

Information about the property of a person, that is not a liable subject, gained on the basis of the laws on taxes, charges, pension or health insurance or social security 8) the obliged entity will not provide on the basis of this law.

8) For instance § 24 of Law No 337/1992 Coll., on administration of taxes and charges, in wording of later regulations, § 23 of Law No 592/1992 Coll., on insurance on general health insurance in wording of later regulations, § 14 of Law No 582/1991 Coll. on organization and providing social security, in wording of later regulations, § 24a of Law No 551/1991 Coll., on General Health Insurance Company of the Czech Republic, Law No 117/1995 Coll., on State Social Support, in wording of later regulations.

§ 11

Other restrictions of information rights

(1) The obliged entity can restrict providing information if:

- a) it relates solely to internal guidelines and personnel rules of the liable subject,
- b) it is new information, that originated during preparation of a decision of the obliged entity, unless the law sets forth otherwise; this is valid only to the time when preparation will end by a decision.

(1) The obliged entity will not provide information, if:

- a) it was passed over by a person, to whom the law does not prescribe such obligation, unless it stated, that it agrees with the provision of the information,
- b) is disclosing it on the basis of a special law 9) and in previously determined regular periods till the nearest subsequent period,
- c) the protection of intellectual property set by a special law would be breached. 10)

(3) When providing information, that the obliged entity acquired from a third party to fulfill tasks according to a special law, 11) and according to which the obligation of reticence would apply or another procedure safeguarding them against disclosure or misuse, but that could be provided according to this law, the obliged entity will provide

only the information that is directly in relation with pursuance of his activities.

- (1) Furthermore the subjects will not provide information about
 - a) criminal procedures taking place,
 - b) decisive activity of the court,
 - c) assignments of intelligence services, 12)
 - d) preparation, performance and review of control results in bodies of the Highest Control Office.

The provisions of special laws 13) about providing information in the mentioned areas remain untouched.

- 9) For instance Law No 89/1995 Coll., on State statistics service, Law No 6/1993., on Czech National Bank, in wording of later regulations.
- 10) For instance Law No. 35/1965 Coll., on literary, scientific and artistic works (Author's Act), in wording of later regulations.
- 11) For instance Law No 592/1992 Coll., in wording of later regulations, Law No 222/1994 Coll., on conditions for entrepreneurial business and performance of State administration in energetic industry and on the State energetic inspection, in the wording of Law 83/1998 Coll., Law No 283/1993 Coll., on State representation in the wording of later regulations, Law No 166/1993 Coll., on the Highest Control Office, in the wording of later regulations, Law No 15/1998 Coll., on Securities Commission and about adjustment and addition of further laws. Law No 77/1997 Coll., on State company, Law No 273/1993 Coll., on some conditions of production, spreading and filing of audio/video works, on adjustment and completion of some laws and further regulations, in the wording of Law No 40/1995 Coll., Law No 13/1993 Coll., Customs Law, in wording of later regulations, Law No 570/19910Coll., on Trades Licensing Offices in the wording of Law No 286/1995 Coll., Law No 389/1991 Coll., on state administration of atmosphere protection and charges for its pollution, in the wording of later regulations, Law No 64/1986 Coll., about the Czech trade inspection, in the wording of later regulations, Law No 133/1985 Coll., on Fire protection, in wording of later regulations.
- 12) §5 and 8 of Law No 153/1994 Coll., on intelligence services, in wording of Law No 118/1995 Coll.,
- 13) For instance § 8a of Law 141/1961 Coll., Penal Code, in wording of law No 292/1993 Coll., § 45 of Law No 166/1993 Coll.

All restrictions of rights for information the liable subject will perform in such a way, that he will provide requested information including accompanying information after expelling information set forth by the law. The right to refuse information only lasts for the period, in which the reason for refusal lasts. In justified cases the subject will verify, if reason for refusal still lasts.

§ 13

Application for providing information

- (1) The application asking for information is submitted either in writing or orally, and also by means of telecommunications equipment.
- (2) If the applicant does not receive information on the basis of an oral application or if the applicant does not consider the information provided on the basis of an oral application as sufficient, it is necessary to apply in writing
- (3) Provision of § 14 to 16 and § 18 applies only to applications submitted in writing.

§ 14

Procedure for submitting and executing written applications for providing information

- (1) The application is submitted on the day it is received by the subject. Notification of the applicant, that he insists on receiving the information in compliance with § 6 par. 2, is considered as a new submission of the application.
- (2) From each submitted application it must be apparent to which subject it is assigned and who is applying. Applications by means of telecommunication equipment 2) relevant identification of the applicant must also be stated (for instance electronic address). If the application does not include these data, then the application is not a submission in the meaning of this law and the application is set aside.
- (3) The obliged entity assesses the contents of the application and:
 - a) in the event that the application is unintelligible, it is not apparent, what kind of information is requested or the formulated is too general, he will ask the applicant within a period of seven days from submission of the application to make the application more accurate, if the applicant does not send a more detailed application within 30 days he will decide about refusal of the application,
 - b) in the event, that the requested information does not fall under the sphere of his activities, he will set the application aside and will convey this justifiable fact within three days to the applicant
 - c) will provide the requested information within 15 days at the latest from acceptance of the submission or from receiving the detailed application in compliance with letter a), in writing, by examination of recorded documents, including the possibility of making copies, or on memory media.
- (1) A record is made about the process of providing the information.

- (2) The set period for providing the information can be lengthened for significant reasons by ten days at the utmost. Significant reasons are:
- a) searching for and collecting the required information in other offices, that are separate from the office attending to the application,
 - b) searching and collecting a great volume of separate and different information requested in one application,
 - c) consulting another obliged entity who is significantly interested in the decision about the application, or between two or more units of the obliged entity, who have a consequential interest in the subject of the application. The applicant must be evidently informed about the extension of the time period and the reasons for it in time before expiration of the term for providing information.

§ 15

Decision

- (1) If the obliged entity does not execute, even if only partially, the application, he issues a decision, in the term set for execution of the application, with the exception of cases, when the application is set aside according to § 14 par. 2 or according to § 14 par 3 letter b). If the obliged entity is a community, the decision is issued by the Community Office.
- (2) The decision must include indication of the obliged entity, evidence number and date of issue of decision, indication of the recipient of the decision, statement with listing of legal regulations, according to which the decision was made, justification of every restriction of right for information, indication about the place, time and form for submitting any rectification means, signature of the authorized officer of the obliged entity with indication of name, surname and function.
- (3) The decision is delivered into own hands of the applicant.
- (4) If the body, in the period set for execution of the application, did not provide the information or issue a decision according to § 15 par. 1, it is supposed, that it has issued a decision by which the information was rejected (withheld). An appeal can be filed against this decision within 15 days from the day the period for execution of the application expired.

§ 16

Appeal

- (1) Against the decision of the obliged entity about refusal of the application an appeal can be filed within 15 days of delivery of the decision or from the vain (ineffective) passing of the period for execution of the application as in the case in § 15 par 4. The appeal is filed with the obliged subject that issued the decision or should have issued it.
- (2) The appeal against the decision of the obliged entity is decided by the obliged entity next in superiority to the obliged entity that issued or should have issued the decision. If it is a decision of the Communal Office about information on matters of independent activity of the

community, decision about the appeal is made by the community council, unless the community representatives set forth, that another body of the community will make the decision. In other cases a decision about the appeal will be made by the head of the obliged subject, that issued or should have issued the decision, and is entitled to negotiate in the name of the obliged subject.

- (3) The appeal body will make a decision about the appeal within 15 days from the submission of the appeal by the obliged entity. If a decision is not made within the set time period it is deemed that it issued a decision, by which it rejected the appeal and acknowledged the contested decision; the day following the day of expiration of the period for execution of the appeal is deemed as the day of delivery of this decision.
- (4) The decision about the appeal cannot be appealed.
- (5) An exposition can be filed against the decision of the Central body of state administration about rejection of the application, a decision will then be made by a senior officer of State administration. Provisions of par. 1, 3 and 4 are similarly valid for an exposition.
- (6) The decision about rejection of the application can be revised by the court according to a special law.

14) § 247 and following Law No 99/1963 Coll., Civil Court Rules in wording of later regulations.

§ 17

Reimbursement of costs

- (1) The obliged entities in relation to providing information have the right to demand reimbursement in the amount, that cannot surpass costs related to searching for information, making copies, getting technical bearers of data and sending of information to the applicant.
- (2) The supposed amount of reimbursement must be acknowledged on the application of the applicant.
- (3) The obliged entity can condition issue of information by asking for payment or for an advance.
- (4) The payment is a revenue of the obliged entity.

§ 18

Annual Report

- (1) Every obliged entity must as at 1 March disclose an annual report about its activities for the previous calendar year in the area of providing information according to this law which must contain the following data:
 - a) number of submitted applicants for information,
 - b) number of submitted appeals against decisions,
 - c) a copy of the material part of every decision of court,
 - d) results of sanction proceedings for not adhering to this law without stating personal data,

e) further information relating to this law.

- (1) If the obliged entity has the obligation, set by special law, to submit a public annual report, data according to par. 1 letter a) to e) are incorporated into this report as an individual part with the title “Providing information according to law No 106/1999 Coll., on free access to information”.

§ 19

Enabling access to information or providing information on conditions and in a manner set by this law is not a breach of duty to keep reticence set forth by special laws. 15)

15) For instance law No 15/1998 Coll., Law No 90/1995 Coll., on agenda of Parliament, law No 199/1994 Coll., on placing public tenders, in wording of later regulations, law No 283/1993 Coll., in wording of later regulations, law No 6/1993 Voll., in wording of later regulations.

PART TWO

TEMPORARY AND FINAL PROVISIONS

§ 20

- (1) The obligation set in § 5 par. 2 begins on 1 January 2001. For communities, that are not towns, 16) the obligation according to § 5 par. 2 begins on 1 January 2002.
- (2) The obligation set forth in § 5 par. 3 begins on 1 January 2002.
- (3) The term for providing information [§ 14 par. 3 letter c)] and extension of this period (§ 14 par. 5) in the first 12 months of the efficacy of this law is extended to double the length, and a further 12 months is extended by half.
- (4) Unless this law states otherwise, Administrative rules apply to the measuring of terms and proceedings according to § 15 and 16, with the exception of provision about renewal of proceedings and about review of decision outside of appeal proceedings.
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16) Law No 367/1990 Coll. about communities, in wording of later regulations.

17) Law No 71/1967 Coll., on administrative proceedings (administration rules).

§ 21

The Government will issue a decree by which it will adjust the correlation of state administration bodies with communities in ensuring the obligations of the communities in accordance with § 5 of this law.

§ 22

Efficacy

This law becomes effective on 1 January 2000.